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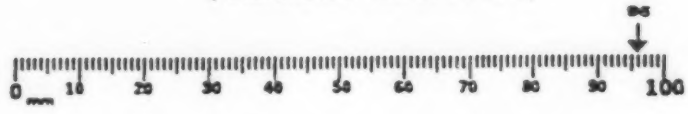

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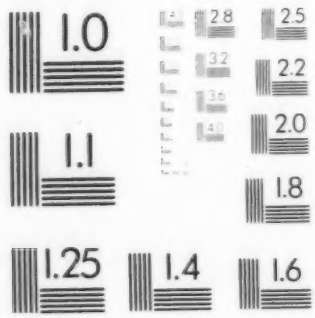

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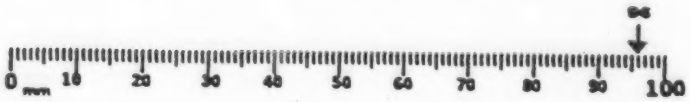

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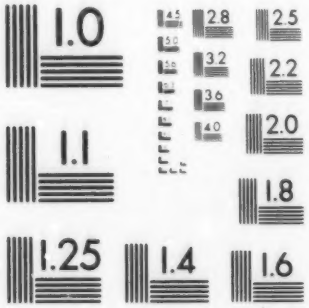

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RELEASE OF HIGH RISK OFFENDER INFORMATION PROTOCOL

A. SCOPE

1. The Release of High Risk Offender Information Protocol [the Protocol] will assist the response of the municipal and provincial police agencies with jurisdiction in the Province of Nova Scotia in three situations:

• where Correctional Services Canada provides information to the police pursuant to section 25(3) of the Corrections and Conditional Release Act and internal police directives that the release of a high-risk adult offender is imminent;

• where the Correctional Services Division of the Department of Justice of Nova Scotia provides information to the police pursuant to internal policy that the release of a high-risk adult offender is imminent;

• where police, as a result of an investigation or information supplied by an independent source, are made aware of the presence of a high-risk adult offender.

2. In order to ensure that any derogation from established constitutional and statutory guarantees of informational privacy is justifiable, for purposes of this Protocol, the term 'high-risk' denotes an offender, other than an offender who is under community supervision, who has been convicted of one or more of the offences listed below, whose presence in the community after warrant expiry gives rise to a risk of significant harm and either

(a) has had imposed a term of imprisonment related to the offence; or

(b) whose behaviour has been assessed by a police agency as posing a risk of significant harm.

For purposes of this provision and the Protocol, the offences are:

• a serious personal injury offence - which are (a) Criminal Code offences involving the use of violence against another person, or conduct endangering the life or safety of another person or inflicting or likely to inflict severe psychological damage upon another person carrying a penalty of 10 years or more, and (b) offence or attempt to commit offence of section 271 (sexual assault), section 272 (sexual assault with a weapon, threats to a third party or causing bodily harm) or section 273 (aggravated sexual assault) of the Criminal Code, or;

• section 152 (invitation to sexual touching) section 153 (sexual exploitation) or section 173 (2) (indecent acts-exposure) of the Criminal Code.

3. In order to determine if an offender conforms to the definition of 'high-risk', Correctional Services Canada and Nova Scotia Correctional Services have developed protocols to enable the review of the history of all offenders prior to warrant expiry. To consider whether offenders other than those released on warrant expiry are defined as 'high-risk', their criminal behaviour must comply with two criteria:

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• it evidences a certain degree of dangerousness/seriousness; and

• the presence of the offender in the community is, from an objective viewpoint, likely to pose a risk of significant harm.

4. An offender's criminal history will give rise to a characterization of dangerousness if it demonstrates one or more of the following:

• a pattern of repetitive behaviour evidencing a failure to restrain harmful conduct which is likely to cause death or injury to other persons, or to inflict severe psychological damage on other persons;

• a pattern of persistent aggressive behaviour showing a substantial degree of indifference to the reasonable foreseeable consequences to other persons of his/her behaviour;

• any behaviour that is of such a brutal nature as to compel the conclusion that future conduct is unlikely to be inhibited by normal standards of behavioural restraint; or

• any conduct in any sexual matter that reveals a failure or inability to control sexual impulses and gives rise to the probability of injuries, pain or other evil to other persons through failure in the future to control his sexual impulses.

5. An assessment of whether the presence of the 'high-risk' offender in the community generates a reasonable apprehension of danger will be based upon a variety of criteria including, but not limited to:

• the age and health of the individual
• offence history and pattern
• the degree of violence involved in the most recent and past offences
• the number of victims
• the impact of the most recent and past offences upon victims
• access to potential victims
• participation and response to current or past treatment programs
• psychiatric, psychological or social assessments
• interpersonal relationships and community support systems
• any breaches of conditional release
• any other aggravating or mitigating circumstances.

B. OPERATION OF THE PROTOCOL

(I) Referral of Cases

6. The operation of the Protocol will be activated by a determination of the police acting upon information either received from a correctional agency (Correctional Services Canada or Nova Scotia Correctional Services) or resulting from an independent source (through an investigation or private information) that an offender (resident in or due to be released to the province) is 'high-risk' and poses a risk of significant harm to the community.

7. The Protocol will also apply to cases based upon information which reveals that a recently-released 'high-risk' offender is en route to Nova Scotia and poses a risk of significant harm. In such cases, the police agency receiving the information will determine whether the referral can be processed in accordance with this Protocol, or whether in situations of urgency, immediate action is required.

8. Correctional Services Canada and Nova Scotia Correctional Services will employ standard and uniform criteria, consistent with the Protocol, to enable risk assessment of

offenders and permit information-sharing. Guidelines based upon section 25(3) of the Corrections and Conditional Release Act have been developed by Correctional Services Canada. Nova Scotia Correctional Services will develop and implement internal policies, consistent with those applied by Correctional Services Canada, to permit all individuals within its jurisdiction to be reviewed in accordance with established guidelines to determine whether an offender presents a risk of significant harm to any individual prior to release from custody.

9. Following a determination that an individual within its jurisdiction presents a risk of significant harm, both Correctional Services Canada, Nova Scotia Correctional Services or a police agency, agree to provide all information in their control, relevant to the perceived risk, to the coordinating police agency.

10. Where an inmate is believed to be a 'high-risk' offender who poses a real and material risk of significant harm to any person, group or the public at large, Correctional Services Canada or Nova Scotia Correctional Services or the police agency who has assessed the offender will notify and provide timely and detailed data to the coordinating police agency.

11. Correctional Services Canada agrees, pursuant to section 25(3) of the Corrections and Conditional Release Act, that "Where the Service has reasonable grounds to believe an inmate who is about to be released by reason of the expiration of the sentence will, on release, pose a threat to any person, the Service shall, prior to the release and on a timely basis, take all reasonable steps to give the police all information under its control that is relevant to the perceived threat". A copy of the information-sharing protocols applied by Correctional Services Canada is attached. Guidelines currently applied by Correctional Services Canada require that, where possible, CSC shall collect materials and initiate contact with the police at least 60 days prior to Warrant Expiry. Nova Scotia Correctional Services has developed information-sharing protocols which will enable police to be advised on an equally-timely basis prior to the release of a 'high-risk' offender from a provincial institution.

12. In order for all parties to satisfy the terms of the Protocol, at a minimum, the information provided by either correctional agency must include:

- the individual's name, age, date of birth and a current photograph (if available)
- a description of circumstances surrounding the offence for which the individual has been committed to the custodial care of correctional services;
- a risk assessment report, including a synopsis of the individual's criminal history with patterns of violence noted;
- copies of available psychiatric/psychological reports relating to detention and assessment of risk;
- any information with respect to potential victims and any contact that may have been made with actual victims;
- information regarding the applicability of any publication ban; the risk of prejudice to a fair trial in relation to any outstanding charges; or any federal or provincial legislation in relation to the potential release of information;
- any other relevant documentation that correctional authorities believe will assist the police;
- list of possible destinations.

13. In situations of urgency, the operation of the Protocol may be suspended to permit a decision with respect to notification to be made by the appropriate police agency.

(II) Identification of "Coordinating" Police Agency

14. As a consequence of the provincial policing structure, the Royal Canadian Mounted

Police will always be the "coordinating police agency" for purposes of the Protocol. Where the release destination or presence of a 'high-risk' offender is within the jurisdiction of a municipal police service, that police service will be designated the lead police agency for purposes of the Protocol.

15. The "lead police agency" is responsible for ensuring that the Protocol procedures are initiated and followed and that all necessary documentation is collected and transmitted to the Community Notification Advisory Committee (the Committee, see Section 26). In addition the coordinating police agency will provide any other information or assistance which may be required by the Committee, and will designate any appropriate municipal police agency that may be appropriate.

C. PROCESS

(I) Initiation of Process

16. The lead agency which receives the information package from the co-ordinating agency must, in other than urgent situations, initiate the steps outlined in the Protocol as part of its role in the public notification decision-making process.

17. In urgent situations, where use of the Protocol is not possible, the police agency which issues a community notification will inform the Committee that the community notification has been issued.

18. In cases in which an investigation establishes a location in another policing jurisdiction as the probable destination, the coordinating agency must transfer the original information package to that police agency and designate that agency as the lead agency for the purposes of the Protocol. Because the timely determination of the public notification issue is critical, transfer of lead agency responsibility should occur only where need is clearly demonstrated.

19. It is anticipated that materials received from either correctional agency will indicate the probable destination of offenders. Where the inmate has indicated an intended destination, independent verification of that fact should be sought by the coordinating agency. Where such information is known/confirmed, it will be transmitted to the police force in the receiving jurisdiction as the designated lead police agency. Where the inmate has refused to indicate a destination, and a file review does not otherwise disclose a likely destination, the information will be forwarded to the police agency responsible for the investigation of the offence for which the inmate was most recently convicted. The coordinating agency receiving the original information package will be responsible for making all reasonable efforts, including coordination with other forces, to determine the individual's ultimate location after release.

20. Where more than one destination may be relevant, the concerned correctional authority or the police force which conducted an assessment must notify the coordinating agency. The coordinating agency will inform and designate additional police agencies as appropriate. The information package should clearly indicate whether and which other agencies have been contacted. When a destination for the high risk offender is determined, the police agency having jurisdiction in that area will be designated as lead agency.

21. If an inmate, upon release, moves to another jurisdiction, the information package and any follow-up investigation data must be transferred to the relevant agency.

(II) Notification of Lead Agency

22. While the lead agency will be ultimately responsible for the information/release decision, it is desirable that the decision be based on consultation with the Committee. To

ensure that consultation is both effective and meaningful, it is the responsibility of the lead agency to refer the matter--where practicable-- (including all relevant documentation) to the Committee.

(III) Notification of Offender

23. The lead agency will also be responsible for providing written notice to the affected offender of a referral to the Committee. The notice will be sent to the last known address by registered mail. Where operational considerations render the notice of the referral to the Committee impracticable in certain circumstances, the lead agency will notify the offender, by registered mail to the last known address of the offender, of the disclosure as soon as possible after the release.

24. The notice of a referral to the Committee given to the offender by the lead agency should be sufficiently detailed and precise to permit the offender to respond in writing and should include the following information:

- that the offender has been classified as 'high-risk'.
- that the matter has been referred to a Community Notification Advisory Committee.
- that the Committee has been provided with a copy of the offender file and other relevant documentation.
- that the Committee will review the file and is empowered to make a recommendation regarding disclosure to the lead agency.
- that the offender has a reasonable opportunity to make written submissions on the issue of disclosure for consideration by the Committee.
- that upon receipt of the recommendation, the lead agency may disclose personal information concerning the offender.

Once a referral has been made to the Committee--and where practical--the offender must be notified within seven (7) days. The offender then has 10 days in which to respond in writing to the Committee on the issue of disclosure.

(IV) Community Notification Advisory Committee

25. While the police will retain the ultimate authority in determining the release of information, where it is warranted, the Committee will review the case and consider a range of options that may be recommended, including a public or targeted warning or no disclosure. The Committee must balance the rights of the offender and the interests of the community in making any recommendations.

26. The Committee will consist of the following:

- A Chairperson appointed by the Minister of Justice and Attorney General for Nova Scotia.
- A representative of Provincial Police (RCMP).
- A representative of each lead agency.
- A member of the Police and Public Safety Services Division.
- A representative of Correctional Services Canada.
- A representative of Correctional Services Division of the N.S. Department of Justice.
- A medical or therapeutic practitioner.
- A representative of the Nova Scotia Barristers' Society.
- A representative of the Victims' Services Division of the Department of Justice
- Five laypersons representing regional areas of the province appointed by the Nova Scotia Minister of Justice.

The Committee establishes its own internal rules and procedures in cooperation with the Department of Justice. The Nova Scotia Department of Justice will be responsible for providing administrative support to the Committee; through the Police and Public Safety Services Division.

27. The Committee will meet as required by referral, as called by the Chair, and will endeavour to complete its task and to provide advice to the lead agency in an expeditious manner. In cases where a 60-day notice of Warrant Expiry has been given, the lead agency will make a decision on referral to the Committee within five (5) days of receipt of notification. The Committee will endeavour to complete its task and provide advice to the lead agency within 45 days upon referral.

28. The Chair of the Committee, upon receipt of all relevant documentation from the lead agency, will distribute all relevant material to members, will arrange meetings, record recommendations and ensure prompt communication with the appropriate police agency.

29. The members of the Committee will familiarize themselves with the risk-assessment criteria employed by the federal and provincial correctional authorities, as well as any other procedures or techniques which may be appropriate in the circumstances. The Committee will scrutinize all relevant documentation to determine whether an offender can reasonably be said to pose a risk of significant harm to a person or persons in the community and, with the assistance of the lead agency, will also review the record, if available, of:

- Prior proceedings or police contacts in order to appreciate what, if any, analysis/report have been completed with reference to the offender; pertinent judicial observations made in the course of the sentencing process; and the perspectives of police agencies which have investigated or had substantial contact with the offender.
- The characteristics and attributes of potential victims in order to appreciate the degree of risk within a particular community, and whether it can be localized in any fashion.
- Relevant psychological/social/psychiatric assessments.
- Any written submissions from the offender.
- Any victim impact information.

30. Information provided to the Committee is to be treated as confidential, subject to any recommendation concerning disclosure. All deliberations shall be confidential. All laypersons will enter into an oath of confidentiality in order to serve on the Committee. The Chair shall ensure that all members have had a reasonable opportunity to participate either in person, or where necessary, by teleconference.

31. Any recommendation(s) provided by the Committee to the lead agency shall be communicated in writing, in a confidential manner.

32. The Committee will consider all potential operational responses in order to determine the necessity of disclosure, the degree and extent of disclosure, and the impact of disclosure on both the community (including the media) and the offender. The deliberations of the Committee will proceed from the premise that disclosure of personal information should be recommended only in the last resort when it is satisfied that no other response would provide adequate protection to the public and when the injury to privacy rights of the offender is clearly in the interest of public safety.

33. The Committee must also take into account the potentially adverse consequences of notification, including:

- the damage to individual privacy interests;
- the possibility of vigilante reprisals against the offender or others;
- the possibility that the offender will withdraw from treatment/reintegration programs;

• the possibility that the offender may be "driven underground" and beyond the scope of police monitoring;
• the possibility that the problem will simply be transferred to another jurisdiction;
• the possibility that the notification will place increased stress upon the offender and increase the likelihood of reoffending;
• the possibility that repeated disclosures will desensitize the public;
• the possibility of retaliation against victims/authority figures;
• the possibility that disclosure will create a false sense of security on the part of the public.

34. The Committee must also consider the following matters; the right of the offender to a fair trial; the impact of federal and provincial privacy legislation; and any other pertinent matters.

35. When all feasible alternatives to community notification have been considered and rejected, the Committee must determine the nature and degree of information that will be required to meet the objectives of the Protocol as well as the method and duration of public notification, and in accordance with standard news release form developed by the Committee.

36. The recommendation of the Committee will be communicated by the Chair to the lead agency.

37. The recommendation of the Committee is non-binding. Having reviewed the recommendation of the Committee, together with the accompanying report and any relevant documentation, the Commanding Officer/Chief of Police of the lead agency may choose any of the following notification options:

• no notification;
• partial or selective notification of an individual (for example, of a victim or witness);
• notification of an identifiable group (for example, community groups, interest groups, persons in positions of trust or authority);
• full public notification.

The lead agency may determine the scope of the media notification, in accordance with the standard news release form developed by the Committee. The lead agency is also responsible for communicating the decision on notification to the Committee; i.e. if recommendations of the Committee are fully, partially, or not accepted.

38. When the lead agency decides to release information regarding a 'high-risk' offender to a community or a target group/individual, it shall make a 'person' entry into the Special Interest Police (SIP) Category of CPIC; and ensure a community education program is conducted in concert with the public notification.

(VI) Indemnity

39. Provided the lead agency has forwarded all relevant information to the Advisory Committee, the Province of Nova Scotia agrees to indemnify the Committee or any individual member with respect to any damages arising out of any recommendations made by the Committee.

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